



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,422	03/30/2001	Phani Kumar Bidarahalli	390086.94723	3206

28382 7590 05/17/2004

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

EXAMINER

MANIWANG, JOSEPH R

ART UNIT	PAPER NUMBER
----------	--------------

2144

DATE MAILED: 05/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/681,422

Applicant(s)

BIDARAHALLI ET AL.

Examiner

Joseph R Maniwang

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☒ Claim(s) 1-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Fig. 3, reference element 140 (see p. 7, paragraph [0025]). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Fig. 3, reference element 450. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: the claims do not begin with a subject phrase. While there is no set statutory form for claims, the present Office practice is to insist that each claim must be the object of a sentence starting with "I (or we) claim," "The invention claimed is" (or the equivalent). See MPEP 608.01(m). Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 15 recites the limitation "one of the event source applications and one of the even listener applications". There is insufficient antecedent basis for this limitation in the claim.
7. Claim 16 recites the limitation "one of the event source applications" and "one of the even listener applications". There is insufficient antecedent basis for these limitations in the claim.
8. Examiner will presume that claims 15 and 16, which depend on claim 13 and lack antecedent basis as such, were intended to depend upon claim 14.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-9, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCurley et al. (U.S. Pat. App. Pub. 2002/0062338), hereinafter referred to as McCurley, and further in view of Labounty et al. (U.S. Pat. App. Pub. 2001/0044823), hereinafter referred to as Labounty.

11. McCurley disclosed a computer network system for managing devices associated with services, and handling requests relating to the services. McCurley disclosed one application of the system in the context of managing medical devices and event handling (see paragraph [0050]). The system included a managed device coupled to a "CyberHub" as an event source, computer terminals connected to the CyberHub as event listeners (see paragraph [0063], [0070]), and a service for registering to the network (see paragraph [0058]). Deregistering in this case is implicitly disclosed through the ability to change and customize the type of registration requested (see paragraph [0060]). The event sources and event listeners were located in a first host and second host (see Fig. 1), where event sources were disclosed as biomedical devices (see paragraph [0048]), and event listeners were disclosed as typical computer terminals (see paragraph [0015]), thus differing in language, architecture, and device. McCurley disclosed the use of the Internet for communicating between event sources and event listeners (see paragraph [0062]). McCurley disclosed a system with a plurality of event sources as well as event listeners (see paragraph [0015], [0017], [0055]). The transfer of data between an event source and event listeners could be controlled by a filter generated by registering with the name service in the CyberHub (see paragraph [0060]).

Art Unit: 2144

12. While McCurley disclosed the use of the Internet for communicating events between for communicating between event sources and event listeners, McCurley did not disclose the use of applets.

13. In a related art of communicating medical event data in a computer network, Labounty disclosed a network based telemetry system for monitoring patient data. The system was similar to McCurley, as it comprised event source devices, data monitoring devices, and the use of the Internet for communicating data to a workstation terminal (see paragraph [0014]). Most importantly, Labounty disclosed the use of a Web browser with an applet on the workstations for viewing event data (see paragraph [0026], [030]).

14. It would have been obvious to one of ordinary skill in the art at the time of invention to modify the invention of McCurley to include the teachings of Labounty, providing a system in which event data could be communicated between a source and a listener by way of the Internet using applets. One of ordinary skill in the art would have been motivated to do so as Labounty disclosed the use of applets to overcome the inefficiencies of HTTP in viewing Web data over the Internet (see paragraph [0038]). As McCurley disclosed the use of the Internet for communication, the use of applets would have given McCurley an advantageous gain in system efficiency.

15. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCurley et al. (U.S. Pat. App. Pub. 2002/0062338), in view of Labounty et al. (U.S.

Pat. App. Pub. 2001/0044823), as applied to claim 1 above, and further in view of what was well-known at the time of invention.

16. The combination of teachings of McCurley in view of Labounty suggest a system in which medical devices provide an event source and computer terminals function as event listeners communicating through the Internet. The transfer of data between an event source and event listeners could be controlled by a filter generated by registering with a name service. The combination of teachings suggest the use of a Web browser with an applet for event listening, offering an efficient use of the Internet for communicating medical event data. Both references taught the use of Java (see McCurley, paragraph [0009], Labounty, paragraph [0038]).

17. Examiner takes Official Notice (see MPEP § 2144.03) that the use of library packages in a computer networking environment was well known in the art at the time the invention was made.

18. It would have been obvious to one of ordinary skill in the art at the time of invention to consider the use of library packages in the system suggested by the combined teachings of McCurley and Labounty. Both McCurley and Labounty disclose the use of Java. It was well known at the time of invention that the Java programming language included the use of libraries. Although the references do not teach the specifically named library packages claimed, the claimed library package names are not commonly used in the art and are an arbitrary choice left to the artisan. Furthermore, the functionality of the specific library packages are not defined in the claims, and are instead described in terms of structure by which library/class/subclass name is included

in the package. As such, the claims provide no substantial subject matter other than the broad use of library packages, which is inadequate to differentiate the invention over the prior art.

19. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over McCurley et al. (U.S. Pat. App. Pub. 2002/0062338), in view of Labounty et al. (U.S. Pat. App. Pub. 2001/0044823), as applied to claim 1 above, and further in view of Licato et al. (U.S. Pat. No. 6,356,780), hereinafter referred to as Licato.

20. The combination of teachings of McCurley in view of Labounty suggest a system in which medical devices provide an event source and computer terminals function as event listeners communicating through the Internet. The transfer of data between an event source and event listeners could be controlled by a filter generated by registering with a name service. The combination of teachings suggest the use of Java and a Web browser with an applet for event listening, offering an efficient use of the Internet for communicating medical event data.

21. While both references generally relate to devices used in the medical field (see McCurley paragraph [0048], Labounty, paragraph [0014]), neither specifically discloses the use of an MRI, CT, PET, x-ray scanner, or nuclear imaging scanner.

22. In a related art of medical devices, Licato disclosed a method for managing medical imaging devices and their associated peripherals. Licato disclosed common imaging systems in the medical field, including MRI, CT, x-ray, and PET (see column 1, lines 17-32; column 2, lines 43-62).

23. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of McCurley in view of Labounty and Licato to include one of an MRI, CT, PET, or x-ray system as one of the event source devices. One of ordinary skill in the art would have been motivated to do so as such devices were commonly used in the medical field. Additionally, Licato recognized a need for an improved technique for managing data relating to such imaging systems and peripherals (see column 2, lines 33-40). Including such systems in the system suggested by McCurley and Labounty would have extended the suggested functionality to them, thus providing the benefit of allowing such devices to interoperate, creating a system where a wider variety of medical devices could communicate data.

Conclusion

24. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Ahlert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or reputation of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means

Art Unit: 2144

official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wewalaarachchi et al. (U.S. Pat. No. 6,571,140) disclosed a method and system for remote real-time data monitoring and control.

Chi et al. (U.S. Pat. App. Pub. 2002/0103866) disclosed a method and system for sending messages using event publishing/subscription.

Freeman et al. (U.S. Pat. App. Pub. 2001/0049717) disclosed a method and system allowing servers to communicate using TCP/IP.

Albert et al. (U.S. Pat. App. Pub. 2001/0023316) disclosed a method and system for communicating patient data to a remote site over the Internet.

Bardy (U.S. Pat. App. Pub. 2001/0011153) disclosed a method and system for communicating patient data to a network server.

Thompson et al. (U.S. Pat. App. Pub. 2001/0037060) disclosed a system for monitoring glucose levels over the Internet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R Maniwang whose telephone number is (703) 305-3179. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A Cuchlinski can be reached on (703)308-3873. The fax phone

Art Unit: 2144

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM

MARC D. THOMPSON
MARC THOMPSON
PRIMARY EXAMINER